

AMENDED IN ASSEMBLY MAY 8, 2003
AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1092

Introduced by Assembly Member Harman

February 20, 2003

An act to amend Section 1749.5 of, and to add Section 1749.45 to, the Civil Code, *and to amend Section 1520.5 of the Code of Civil Procedure*, relating to gift certificates.

LEGISLATIVE COUNSEL'S DIGEST

AB 1092, as amended, Harman. Gift certificates: service fees.

Existing law prohibits the sale of any gift certificate that contains an expiration date, except as specified.

This bill would also prohibit the sale of any gift certificate that contains a service fee, as specified. ~~The~~ *For the purposes of these provisions, the* bill would clarify that “gift certificate” includes gift cards, *except for certain cards that may be used with multiple sellers of goods or services, as specified. The bill would also make a conforming change to a related provision.*

This bill would declare that its provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 1749.45 is added, immediately preceding Section 1749.5, to Title 1.4A (commencing with Section 1749.5) of Part 4 of Division 3 of the Civil Code, to read:

1749.45. As used in this title, “gift certificate” includes gift cards, *but does not include any gift card usable with multiple sellers of goods or services, provided the expiration date, if any, is printed on the card. This exemption does not apply to a gift card usable only with affiliated sellers of goods or services.*

SEC. 2. Section 1749.5 of the Civil Code is amended to read:

1749.5. (a) ~~On or after January 1, 1997, it~~ *It* is unlawful for any person or entity to sell a gift certificate to a purchaser that contains any of the following:

(1) An expiration date.

(2) A service fee.

(b) Any gift certificate sold after January 1, 1997, is redeemable in cash for its cash value, or subject to replacement with a new gift certificate at no cost to the purchaser or holder.

(c) A gift certificate sold without an expiration date is valid until redeemed or replaced.

(d) This section does not apply to any of the following gift certificates issued on or after January 1, 1998, provided the expiration date appears in capital letters in at least 10-point font on the front of the gift certificate:

(1) Gift certificates that are distributed by the issuer to a consumer pursuant to an awards, loyalty, or promotional program without any money or other thing of value being given in exchange for the gift certificate by the consumer.

(2) Gift certificates that are sold below face value at a volume discount to employers or to nonprofit and charitable organizations for fundraising purposes if the expiration date on those gift certificates is not more than 30 days after the date of sale.

(3) Gift certificates that are issued for a food product.

SEC. 3. *Section 1520.5 of the Code of Civil Procedure is amended to read:*

1520.5. Section 1520 ~~shall~~ *does not* apply to gift certificates subject to Title 1.4A (commencing with Section ~~1749.5~~ 1749.45) of Part 4 of Division 3 of the Civil Code. However, Section 1520 ~~shall apply~~ *applies* to any gift certificate ~~having~~ *that has* an

1 expiration date and that is given in exchange for money or *any*
2 other thing of value.

3 *SEC. 4.* The provisions of this act are severable. If any
4 provision of this act or its application is held invalid, that invalidity
5 shall not affect other provisions or applications that can be given
6 effect without the invalid provision or application.

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